IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

JOHN M. LEFLER, et al.,)
Plaintiffs,	8:07CV114
vs.) ORDER
JAMES L. BAUM,)
Defendant.)

This matter is before the court on the defendant's Motion to Join M. James Bruckner as a Defendant (Filing No. 14) and Motion for Reconsideration (Filing No. 23). The defendant initially moved to add a party pursuant to Fed. R. Civ. P. 19(a) as a necessary and indispensable party. The court held the defendant's motion in abeyance for failure to comply with NECivR 15.1(a), which requires the moving party to file a proposed amended pleading in a motion to add parties. The defendant seeks reconsideration of the court's order requiring a proposed amended pleading. The defendant argues the pleading which needs to be amended is the plaintiffs' complaint, but the defendant does not want to give legal advice to the plaintiffs regarding amending the complaint. **See** Filing No. 24. The plaintiffs did not file a response to the defendant's motion for reconsideration.

The court agrees with the defendant that the defendant may not amend the plaintiffs' complaint to add a defendant. However, the defendant's current motion would have the same effect. Pursuant to the Federal Rules of Civil Procedure, the defendant may move to add a party pursuant to Rule 19(a), in this instance Mr. Bruckner would likely be a counter-defendant, based on a counter-claim brought by the defendant. The defendant may also file a motion to dismiss pursuant to Rule 12(b)(7). The defendant's current motion was not properly filed pursuant to either procedural rule and will be denied. Upon consideration,

IT IS ORDERED:

1. The defendant's Motion to Join M. James Bruckner as a Defendant (Filing No. 14) is denied.

2. The defendant's Motion for Reconsideration (Filing No. 23) is denied. DATED this 31st day of July, 2007.

BY THE COURT:

s/ Thomas D. Thalken United States Magistrate Judge